

UNITED STATES DISTRICT COURT
for the
District of Massachusetts

U.S. DISTRICT COURT
DISTRICT OF MASS.

2022 OCT 20 AM 11:18

FILED
IN CLERKS OFFICE

JOSE MARIA DECASTRO, an individual)	Case No. 1:22-cv-11421
)	
Plaintiff,)	PLAINTIFF'S MOTION FOR
)	SANCTIONS FOR SPOILIATION AND
v.)	ABUSE OF PROCESS
)	
JOSHUA ABRAMS, an individual, et al.,)	
)	
)	
Defendants.)	
_____)	

PLAINTIFF'S MOTION FOR SANCTIONS FOR SPOILIATION OF EVIDENCE
AND ABUSE OF PROCESS

Comes Plaintiff, Jose DeCastro, pursuant to Federal Rule of Civil Procedure 37(e), respectfully moves for the imposition of sanctions against Defendant Joshua Abrams ("Abrams"), Defendant Katherine Peter ("Peter"), her attorney of record, Benjamin J. Wish ("Wish") (BBO # 672743) and non-party attorney Jon E. Rietveld II ("Rietveld") (CA SBN 320086), for spoliation of evidence.

In support of this Motion, I state that Peter, Rietveld, and Abrams destroyed relevant text message evidence by using Wickr to trade non-privileged communications regarding the harassment and other claims that I bring against Peter and Abrams in this action. Peter, Abrams, and other associates of theirs, including non-party attorney Rietveld, participated in relevant communications well after they knew about this action, and well after Defendants were served with the complaint for this action. Wickr is a text message application that destroys messages a

short time after they are viewed, or even within a time if they are not yet viewed. Plaintiff is unable to recover or replace this evidence and is severely prejudiced by its destruction. As such, the Court should sanction Abrams, Peter and Rietveld, and Wish for willful and wanton destruction of highly relevant electronic evidence pursuant to Federal Rule of Civil Procedure 37(e).

Defendant Peter submitted to this court, documents that revealed my private email address (iamalaskan@gmail.com) that had been previously unpublished, in order to harass me by making my private email address public record, inviting further harassment by the public and her associates my personal email address. Further, it was improper since it was not the email address on the complaint. Although I did use the email address in one court filing to try to own the abuse, I am still left with damages. The Defendants continue to email me at this email address.

Defendant's counsel Wish is continuing to ignore Fed. R. Civ. P. 5(b), intentionally and is aware of the spoliation but instead of conferring with me so that I can file this motion in a timely manner, is just delaying me so that he can file a motion first.

WHEREFORE, I respectfully request that this Court:

1. Grant this motion;
2. Impose sanctions against Peter for her spoliation of evidence pursuant to Federal Rule of Civil Procedure 37(e) including, without limitation, by imposing an adverse inference and appropriate jury instruction;
3. Impose sanctions against non-party attorney Rietveld;
4. Impose sanctions against attorney Wish;
5. Impose sanctions against Defendants;
6. An injunction against Defendants destroying evidence;

7. Award me the reasonable costs and expenses, including reasonable attorney's fees, I incurred in securing this relief;
8. Find Defendant Peter in default under this action; and
9. Award Plaintiff any such further and general relief it deems just and proper.

CERTIFICATION PURSUANT TO LOCAL RULE 7.1(a)(2)

I certify that I have been trying to confer with Ms. Peter and her attorney of record for four days. I do not know if they will be opposing. They are aware of the spoliation.

REQUEST FOR HEARING

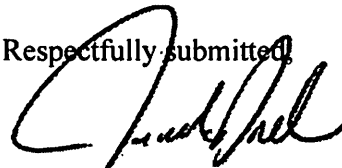
Pursuant to L.R. 7.1(d), I hereby request an evidentiary hearing and/or oral argument – at the Court's election – on the issues presented in this Motion.

REQUEST TO FILE SEALED EVIDENCE

I request leave of the Court to file an affidavit and screenshot evidence under seal. The evidence, revealed in its entire form would expose the identity of the John Doe witness and put them in direct harm from directed violent attacks, vandalism, harassment, and defamation, which are the *modus operandi* of Defendants. I was tracked down on 10/17/2022 by an associate of Peter's, whose intent was to confront me with bear spray and a tape measure "to measure my height", like I'm a wild animal.

Dated: October 18, 2022

Respectfully submitted,



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